



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

RMT/JN/DG
F. #2012R00103

*271 Cadman Plaza East
Brooklyn, New York 11201*

May 11, 2018

By Hand

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Mildred M. Whalen
Federal Defenders of New York, Inc.
1 Pierrepont Plaza, 16th Floor
Brooklyn, NY 11201

Re: United States v. Vitaly Korchevsky and Vladislav Khalupsky
Criminal Docket No. 15-381 (S-1) (RJD)

Dear Counsel:

The government hereby makes the following disclosures in advance of trial. These disclosures are being made subject to the protective order previously entered by the Court on January 5, 2016.

I. Government Exhibits

The government hereby discloses the enclosed trial exhibits, which are stored on a thumb drive and a CD (labeled Government Exhibits). The government makes this disclosure subject to the following caveats:

- Given that trial remains more than four weeks away, the government reserves the right to supplement this production with additional and/or revised exhibits. Among the exhibits that may be modified are the trading analysis presentations, summary exhibits and underlying datasets. The government also anticipates using additional summary exhibits and demonstratives that will be produced once finalized.
- Where indicated on the exhibit list, also produced on this date, the government has not re-produced certain of the more voluminous exhibits that were previously produced in Rule 16 discovery. For example, the government has not re-produced images of certain media that was lawfully seized by authorities in the Ukraine, identified as Government Exhibits 429 and 430.

- All translations being produced on this date are in draft form, and, as indicated on the government's exhibit list, translations are not yet available for certain of the government's exhibits. Final translations for any non-English documents will be produced to the defense as they become available.
- As discussed during the conference call between the government and defense counsel on May 7, 2018, the government understands that the defendants will not be disputing the authenticity of any of the email .mbox files produced to the defense as Government Exhibit 201. Accordingly, the government will not be calling records custodians from the associated internet service providers for those .mbox files. The government will provide defense counsel with a finalized stipulation on this subject, as well as other proposed stipulations next week.
- Depending on the nature of the defenses advanced at trial, the government ultimately may not seek to introduce certain of the enclosed exhibits, or it may seek to admit only portions thereof.

Finally, based on representations made during the May 7, 2018 conference call, the government understands that the defense will disclose its trial exhibits on June 1, 2018.

II. Section 3500 Materials

The government hereby discloses the materials stored on the enclosed CD (labeled Government's 3500 Material) pursuant to Title 18, United States Code, Section 3500. The government reserves the right to supplement this production as additional materials are generated or otherwise become available.

Please note that additional communications, such as emails, hard copy documents (including notes) or text messages, by certain of the government's witnesses that have been produced as trial exhibits or in Rule 16 discovery, have not been remarked as Section 3500 disclosures. Please also note that portions of the materials produced as Section 3500 disclosures for certain witnesses were not authored by those witnesses. However, where a witness relied on materials, or the materials' contents are within the scope of the witness's anticipated testimony on direct examination, the government has disclosed those materials in an abundance of caution.

III. Additional Disclosure

On May 10, 2018, Judge Dearie authorized a search warrant pertaining to this matter. That warrant and corresponding application are enclosed herewith. To the extent this search results in additional government exhibits or other discoverable material, the government will provide those materials to the defendants as they become available.

Very truly yours,

RICHARD P. DONOGHUE
United States Attorney

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Enclosures

cc: Clerk of the Court (RJD) (by ECF (w/o enclosures))